

5 December 1974

STATINTL

MEMORANDUM FOR: [REDACTED], OLC

SUBJECT: S. 4140 - A Bill to Establish a Task Force
on Petrodollars

1. You have requested the comments of this Office on the subject bill. It establishes a Task Force consisting for the most part of U.S. policy-making officials for the purpose of studying the "use, transfer, and investment" of recently-acquired foreign exchange earnings of oil exporting nations. The Task Force is to report its findings to the President and Congress and recommend any legislation deemed necessary or appropriate.

2. In the performance of its duties, the Task Force is authorized to conduct hearings and to issue subpoenas to compel the attendance of witnesses and the production of documentary evidence. Section 1(b)(5) of the bill names the "Director of the Central Intelligence Agency" as a member of the Task Force. However, section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. Sec. 403(d)(3)) provides that "the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions (emphasis added)." Thus, there is an appearance that CIA is given a share of the subpoena power prohibited to it by the National Security Act.

3. This conflict is more apparent than real however. In the first place, the Task Force and not the Agency exercises the subpoena power and subpoenas issued by the Task Force must be signed by its Chairman, the Secretary of the Treasury. Thus, there is no actual conflict with 50 U.S.C. Sec. 403(d)(3). However, even if the bill were interpreted to share subpoena power with the Agency, Congress could still choose to pass the legislation. In that case, Sec. 403(d)(3) would be modified to a limited extent. This interpretation of the bill would be strained to say the least.

4. This is not to say that the Agency should find the bill unobjectionable. The appearance of a conflict between the Agency's statutory authority and the Task Force bill is troublesome. Such appearance would be inconsistent with the intelligence mission of CIA and its desired separation from law-enforcement and other domestic investigative activities. Furthermore, the Task Force is composed primarily of policy-making officials, such as the Secretary of Commerce and Chairman of the Federal Reserve System. The Director of Central Intelligence is not a policy-making official in the sense that other members are. It is recognized that the Task Force has a legitimate need for economic and other intelligence to perform its analytic and advisory mission. However, it would seem that the Agency could provide the necessary intelligence input without having the Director of Central Intelligence as a member. These objections apply with equal force to the Director of the Defense Intelligence Agency.

5. Therefore, it is the opinion of this Office that neither the Director of Central Intelligence nor the Director of the Defense Intelligence Agency should be members of the proposed Task Force.

STATINTL



Office of General Counsel